



General Assembly

January Session, 2017

Raised Bill No. 7299

LCO No. 5497



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING STRENGTHENING LAWS CONCERNING
DOMESTIC VIOLENCE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-181d of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) For the purposes of this section, "course of conduct" means two
4 or more acts, including, but not limited to, acts in which a person
5 directly, indirectly or through a third party, by any action, method,
6 device or means, including, but not limited to, electronic or social
7 media, (1) follows, lies in wait for, monitors, observes, surveils,
8 threatens, harasses, communicates with or sends unwanted gifts to, a
9 person, or (2) interferes with a person's property, and "emotional
10 distress" means significant mental or psychological suffering or
11 distress that may or may not require medical or other professional
12 treatment or counseling.

13 (b) A person is guilty of stalking in the second degree when:

14 (1) Such person knowingly engages in a course of conduct directed
15 at a specific person that would cause a reasonable person [to] in the
16 victim's circumstances to (A) fear for such person's physical safety or
17 the physical safety of a third person, or (B) suffer substantial emotional
18 distress; or

19 (2) Such person intentionally, and for no legitimate purpose,
20 engages in a course of conduct directed at a specific person that would
21 cause a reasonable person in the victim's circumstances to fear that
22 such person's employment, business or career is threatened, where (A)
23 such conduct consists of the actor telephoning to, appearing at or
24 initiating communication or contact at such other person's place of
25 employment or business, provided the actor was previously and
26 clearly informed to cease such conduct, and (B) such conduct does not
27 consist of constitutionally protected activity.

28 (c) Stalking in the second degree is a class A misdemeanor.

29 Sec. 2. Section 53a-181e of the general statutes is repealed and the
30 following is substituted in lieu thereof (*Effective October 1, 2017*):

31 (a) A person is guilty of stalking in the third degree when [he] such
32 person recklessly causes another person in the victim's circumstances
33 to reasonably (1) fear for his or her physical safety, or (2) suffer
34 substantial emotional distress, as defined in section 53a-181d, as
35 amended by this act, by wilfully and repeatedly following or lying in
36 wait for such other person.

37 (b) Stalking in the third degree is a class B misdemeanor.

38 Sec. 3. Section 53a-64bb of the general statutes is repealed and the
39 following is substituted in lieu thereof (*Effective October 1, 2017*):

40 (a) A person is guilty of strangulation or suffocation in the second
41 degree when such person restrains another person by the neck or
42 throat or obstructs such other person's nose or mouth with the intent to

43 impede the ability of such other person to breathe or restrict blood
44 circulation of such other person and such person impedes the ability of
45 such other person to breathe or restricts blood circulation of such other
46 person.

47 (b) No person shall be found guilty of strangulation or suffocation
48 in the second degree and unlawful restraint or assault upon the same
49 incident, but such person may be charged and prosecuted for all three
50 offenses upon the same information. For the purposes of this section,
51 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and
52 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,
53 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

54 (c) Strangulation or suffocation in the second degree is a class D
55 felony.

56 Sec. 4. Section 53a-64cc of the general statutes is repealed and the
57 following is substituted in lieu thereof (*Effective October 1, 2017*):

58 (a) A person is guilty of strangulation or suffocation in the third
59 degree when such person recklessly restrains another person by the
60 neck or throat or obstructs such other person's nose or mouth and
61 impedes the ability of such other person to breathe or restricts blood
62 circulation of such other person.

63 (b) No person shall be found guilty of strangulation or suffocation
64 in the third degree and unlawful restraint or assault upon the same
65 incident, but such person may be charged and prosecuted for all three
66 offenses upon the same information. For the purposes of this section,
67 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and
68 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,
69 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

70 (c) Strangulation or suffocation in the third degree is a class A
71 misdemeanor.

72 Sec. 5. Subsection (h) of section 46b-15 of the general statutes is
73 repealed and the following is substituted in lieu thereof (*Effective*
74 *October 1, 2017*):

75 (h) (1) The applicant shall cause notice of the hearing pursuant to
76 subsection (b) of this section and a copy of the application and the
77 applicant's affidavit and of any ex parte order issued pursuant to
78 subsection (b) of this section to be served on the respondent not less
79 than three days before the hearing. The cost of such service shall be
80 paid for by the Judicial Branch.

81 (2) When (A) an application indicates that a respondent holds a
82 permit to carry a pistol or revolver, an eligibility certificate for a pistol
83 or revolver, a long gun eligibility certificate or an ammunition
84 certificate or possesses one or more firearms or ammunition, and (B)
85 the court has issued an ex parte order pursuant to this section, the
86 proper officer responsible for executing service shall, whenever
87 possible, provide in-hand service and, prior to serving such order,
88 shall (i) provide notice to the law enforcement agency for the town in
89 which the respondent will be served concerning when and where the
90 service will take place, and (ii) send, or cause to be sent by facsimile or
91 other means, a copy of the application, [the applicant's affidavit,] the
92 ex parte order and the notice of hearing to such law enforcement
93 agency, and (iii) request that a police officer from the law enforcement
94 agency for the town in which the respondent will be served be present
95 when service is executed by the proper officer. Upon receiving a
96 request from a proper officer under the provisions of this subdivision,
97 the law enforcement agency for the town in which the respondent will
98 be served may designate a police officer to be present when service is
99 executed by the proper officer.

100 (3) Upon the granting of an ex parte order, the clerk of the court
101 shall provide two copies of the order to the applicant. Upon the
102 granting of an order after notice and hearing, the clerk of the court
103 shall provide two copies of the order to the applicant and a copy to the

104 respondent. Every order of the court made in accordance with this
105 section after notice and hearing shall be accompanied by a notification
106 that is consistent with the full faith and credit provisions set forth in 18
107 USC 2265(a), as amended from time to time. Immediately after making
108 service on the respondent, the proper officer shall (A) send or cause to
109 be sent, by facsimile or other means, a copy of the application, or the
110 information contained in such application, stating the date and time
111 the respondent was served, to the law enforcement agency or agencies
112 for the town in which the applicant resides, the town in which the
113 applicant is employed and the town in which the respondent resides,
114 and (B) as soon as possible, but not later than two hours after the time
115 that service is executed, input into the Judicial Branch's Internet-based
116 service tracking system the date, time and method of service. If, prior
117 to the date of the scheduled hearing, service has not been executed, the
118 proper officer shall input into such service tracking system that service
119 was unsuccessful. The clerk of the court shall send, by facsimile or
120 other means, a copy of any ex parte order and of any order after notice
121 and hearing, or the information contained in any such order, to the law
122 enforcement agency or agencies for the town in which the applicant
123 resides, the town in which the applicant is employed and the town in
124 which the respondent resides, within forty-eight hours of the issuance
125 of such order. If the victim is enrolled in a public or private elementary
126 or secondary school, including a technical high school, or an institution
127 of higher education, as defined in section 10a-55, the clerk of the court
128 shall, upon the request of the victim, send, by facsimile or other means,
129 a copy of such ex parte order or of any order after notice and hearing,
130 or the information contained in any such order, to such school or
131 institution of higher education, the president of any institution of
132 higher education at which the victim is enrolled and the special police
133 force established pursuant to section 10a-156b, if any, at the institution
134 of higher education at which the victim is enrolled.

135 Sec. 6. Section 53a-222 of the general statutes is repealed and the
136 following is substituted in lieu thereof (*Effective October 1, 2017*):

137 (a) A person is guilty of violation of conditions of release in the first
138 degree when, while charged with the commission of a felony, such
139 person is released pursuant to subsection (b) of section 54-63c,
140 subsection (c) of section 54-63d or subsection (c) of section 54-64a, and
141 intentionally violates one or more of the imposed conditions of release.

142 (b) Violation of conditions of release in the first degree is a class D
143 felony, except that any violation of conditions of release that involve
144 (1) imposing any restraint upon the person or liberty of a person in
145 violation of the conditions of release, or (2) threatening, harassing,
146 assaulting, molesting, sexually assaulting or attacking a person in
147 violation of the conditions of release is a class C felony.

148 Sec. 7. Section 53a-222a of the general statutes is repealed and the
149 following is substituted in lieu thereof (*Effective October 1, 2017*):

150 (a) A person is guilty of violation of conditions of release in the
151 second degree when, while charged with the commission of a
152 misdemeanor or motor vehicle violation for which a sentence to a term
153 of imprisonment may be imposed, such person is released pursuant to
154 subsection (b) of section 54-63c, subsection (c) of section 54-63d or
155 subsection (c) of section 54-64a and intentionally violates one or more
156 of the imposed conditions of release.

157 (b) Violation of conditions of release in the second degree is a class
158 A misdemeanor, except that any violation of conditions of release that
159 involve (1) imposing any restraint upon the person or liberty of a
160 person in violation of the conditions of release, or (2) threatening,
161 harassing, assaulting, molesting, sexually assaulting or attacking a
162 person in violation of the conditions of release is a class D felony.

163 Sec. 8. Section 54-91a of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective October 1, 2017*):

165 (a) No defendant convicted of a crime, other than a capital felony
166 under the provisions of section 53a-54b in effect prior to April 25, 2012,

167 or murder with special circumstances under the provisions of section
168 53a-54b in effect on or after April 25, 2012, the punishment for which
169 may include imprisonment for more than one year, may be sentenced,
170 or the defendant's case otherwise disposed of, until a written report of
171 investigation by a probation officer has been presented to and
172 considered by the court, if the defendant is so convicted for the first
173 time in this state or upon any conviction of a felony involving family
174 violence pursuant to section 46b-38a for which the punishment may
175 include imprisonment; but any court may, in its discretion, order a
176 presentence investigation for a defendant convicted of any crime or
177 offense other than a capital felony under the provisions of section 53a-
178 54b in effect prior to April 25, 2012, or murder with special
179 circumstances under the provisions of section 53a-54b in effect on or
180 after April 25, 2012.

181 (b) A defendant who is convicted of a crime and is not eligible for
182 sentence review pursuant to section 51-195 may, with the consent of
183 the sentencing judge and the prosecuting official, waive the
184 presentence investigation, except that the presentence investigation
185 may not be waived when the defendant is convicted of a felony
186 involving family violence pursuant to section 46b-38a and the
187 punishment for which may include imprisonment.

188 (c) Whenever an investigation is required, the probation officer shall
189 promptly inquire into the circumstances of the offense, the attitude of
190 the complainant or victim, or of the immediate family where possible
191 in cases of homicide, and the criminal record, social history and
192 present condition of the defendant. Such investigation shall include an
193 inquiry into any damages suffered by the victim, including medical
194 expenses, loss of earnings and property loss. All local and state police
195 agencies shall furnish to the probation officer such criminal records as
196 the probation officer may request. When in the opinion of the court or
197 the investigating authority it is desirable, such investigation shall
198 include a physical and mental examination of the defendant. If the
199 defendant is committed to any institution, the investigating agency

200 shall send the reports of such investigation to the institution at the time
201 of commitment.

202 (d) Any information contained in the files or report of an
203 investigation pursuant to this section shall be available to the Court
204 Support Services Division for the purpose of performing the duties
205 contained in section 54-63d and to the Department of Mental Health
206 and Addiction Services for purposes of diagnosis and treatment.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2017</i>	53a-181d
Sec. 2	<i>October 1, 2017</i>	53a-181e
Sec. 3	<i>October 1, 2017</i>	53a-64bb
Sec. 4	<i>October 1, 2017</i>	53a-64cc
Sec. 5	<i>October 1, 2017</i>	46b-15(h)
Sec. 6	<i>October 1, 2017</i>	53a-222
Sec. 7	<i>October 1, 2017</i>	53a-222a
Sec. 8	<i>October 1, 2017</i>	54-91a

Statement of Purpose:

To change the standard of fear required for the stalking statutes, include suffocation in the strangulation statutes, delete the requirement that the contents of a restraining order forwarded to law enforcement include the applicant's affidavit, amend the violations of conditions of release statute to provide for an enhanced penalty and amend presentence investigation statutes to prohibit the waiver of such investigation in the case of a family violence crime.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]